

MT LEGISLATIVE HISTORY

Chapter 33 1979

Bill (H) 162 S. _____

Original bill & hist. C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) Jan 18 ✓ C

Hearing Date(s) Jan 27 ✓ C

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Date Out _____ C

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Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

1 HOUSE BILL NO. 167
2 INTRODUCED BY Kvaalen
3 BY REQUEST OF THE CODE COMMISSIONER
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAW RELATING TO THE FAMILY; AMENDING SECTIONS
7 40-1-203, 40-1-311, 40-5-112, 40-5-131, 40-6-108, AND
8 40-8-111, MCA."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 40-1-203, MCA, is amended to read:
12 "40-1-203. Proof of age and medical certificate
13 required. (1) Before a person ~~who is~~ authorized by law to
14 issue marriage licenses ~~may~~ issue a marriage license, each
15 applicant therefor shall exhibit to him a birth certificate
16 or other satisfactory evidence of age and, if ~~such the~~
17 applicant is a minor, the approval required by 40-1-213, and
18 shall file with him a medical certificate from a duly
19 qualified physician, licensed to practice medicine and
20 surgery in any state or United States territory, or any
21 other person authorized by laws of Montana to make ~~such a~~
22 medical certificate, ~~which the~~ certificate shall state that
23 the applicant has been given ~~such~~ an examination, including
24 a standard serological test, made not more than 20 days
25 before the date of issuance of the license, and that the

1 report of the results of the serological test has been
2 exhibited to the applicant and that each party to the
3 proposed marriage contract has examined the report of the
4 serological test of the other party to the proposed
5 contract.

6 (2) A person who by law is ~~validly~~ able to obtain a
7 marriage license in this state is also ~~validly~~ able to give
8 consent to any examinations and tests required by this
9 section. In submitting the blood specimen to the laboratory,
10 the physician or any other person authorized by the laws of
11 Montana to make such a medical certificate shall designate
12 that it is a premarital test."

13 Section 2. Section 40-1-311, MCA, is amended to read:
14 "40-1-311. Declaration of marriage without
15 solemnization. (1) Persons desiring to consummate a marriage
16 by written declaration in this state without the
17 solemnization provided for in 40-1-301 must, prior to
18 executing the declaration, secure the ~~premarital--test~~
19 ~~medical~~ certificate required by this chapter, which shall be
20 firmly attached to the declaration and shall be filed by the
21 clerk of the district court in the county where the contract
22 was executed. ~~Any such~~ A declaration of marriage ~~shall must~~
23 ~~contain~~ substantially contain the following:

- 24 (a) the names, ages, and residences of the parties;
25 (b) the fact of marriage;

1 (c) the name of father and maiden name of mother of
2 both parties and address of each;

3 (d) a statement that both parties are legally
4 competent to enter into the marriage contract.

5 (2) Such the declaration must be subscribed by the
6 parties and attested by at least two witnesses and formally
7 acknowledged before the clerk of the district court of ~~said~~
8 the county."

9 Section 3. Section 40-5-112, MCA, is amended to read:

10 "40-5-112. Contents and filing of petition for support
11 -- venue. (1) The petition shall be verified and shall state
12 the name and, so far as known to the obligee, the address
13 and circumstances of the obligor and the persons for whom
14 support is sought and all other pertinent information. The
15 obligee may include in or attach to the petition any
16 information which may help in locating or identifying the
17 obligor, including a photograph of the obligor, a
18 description of any distinguishing marks on his person, other
19 names and aliases by which he has been or is known, the name
20 of his employer, his fingerprints, and his social security
21 number.

22 (2) At the time of filing the petition, the obligee
23 shall also file with the court an affidavit as required by
24 53-4-248 stating whether he has received public assistance
25 from any source and, if he has received public assistance,

1 that he has notified the department of social and
2 rehabilitation services in writing of the pending action.

3 (3) The petition may be filed in the appropriate court
4 of any state in which the obligee resides. The court may not
5 decline or refuse to accept and forward the petition on the
6 ground that it should be filed with some other court of this
7 or any other state where there is pending another action for
8 ~~divorce~~ separation, annulment, dissolution, habeas corpus,
9 adoption, or custody between the same parties or where
10 another court has already issued a support order in some
11 other proceeding and has retained jurisdiction for its
12 enforcement."

13 Section 4. Section 40-5-131, MCA, is amended to read:

14 "40-5-131. Proceedings not to be stayed -- when. A
15 responding court ~~shall~~ may not stay the proceeding or refuse
16 a hearing under this chapter because of any pending or prior
17 action or proceeding for ~~divorce~~ separation, annulment,
18 dissolution, habeas corpus, adoption, or custody in this or
19 any other state. The court shall hold a hearing and may
20 issue a support order pendente lite. In aid thereof it may
21 require the obligor to give a bond for the prompt
22 prosecution of the pending proceeding. If the other action
23 or proceeding is concluded before the hearing in the instant
24 proceeding and the judgment therein provides for the support
25 demanded in the petition being heard, the court must conform

1 its support order to the amount allowed in the other action
2 or proceeding. Thereafter, the court shall not stay
3 enforcement of its support order because of the retention of
4 jurisdiction for enforcement purposes by the court in the
5 other action or proceeding."

6 Section 5. Section 40-6-108, MCA, is amended to read:

7 "40-6-108. Statute of limitations. (1) An action may
8 be commenced:

9 (a) at any time for the purpose of declaring the
10 existence of the father and child relationship presumed
11 under subsection (a), (b), or (c) of 40-6-105(1); or

12 (b) for the purpose of declaring the nonexistence of
13 the father and child relationship presumed under subsection
14 (a), (b), or (c) of 40-6-105(1), only if the action is
15 brought within a reasonable time after obtaining knowledge
16 of relevant facts, but in no event not later than 5 years
17 after the child's birth.

18 (2) After the presumption has been rebutted, paternity
19 of the child by another man may be determined in the same
20 action if he has been made a party.

21 (3) An action to determine the existence or
22 nonexistence of the father and child relationship as to a
23 child who has no presumed father under 40-6-105 may not be
24 brought later than 3 years after the birth of the child or
25 later than July 1, 1978, whichever is later.

1 (4) Sections 40-6-107 and 40-6-108 do not extend the
2 time within which a right of inheritance or a right to a
3 succession may be asserted beyond the time provided by law
4 relating to distribution and closing of decedents' estates
5 or to the determination of heirship or otherwise.

6 (5) After the conclusion of an adoption proceeding
7 under chapter 8, Title 40, no further action to declare the
8 existence or nonexistence of the father and child
9 relationship of the adopted child may be commenced, except
10 as provided in 40-8-112."

11 Section 6. Section 40-8-111, MCA, is amended to read:

12 "40-8-111. Consent required for adoption. (1) An
13 adoption of a child may be decreed when there have been
14 filed written consents to adoption executed by:

15 (a) both parents, if living, or the surviving parent
16 of a child, provided that consent shall not be required
17 from a father or mother:

18 (i) adjudged guilty by a court of competent
19 jurisdiction of physical cruelty toward said the child;

20 (ii) ~~adjudged to be an habitual drunkard~~ involuntarily
21 committed as an alcoholic pursuant to 53-24-302;

22 (iii) who has been judicially deprived of the custody
23 of the child on account of cruelty or neglect toward the
24 child;

25 (iv) who has, in the state of Montana or in any other

1 state of the United States, willfully abandoned such ~~the~~
2 child;

3 (v) who has caused the child to be maintained by any
4 public or private children's institution, charitable agency,
5 or any licensed adoption agency or the department of social
6 and rehabilitation services of the state of Montana for a
7 period of 1 year without contributing to the support of ~~said~~
8 ~~the~~ child during said period, if able; or

9 (vi) if it is proven to the satisfaction of the court
10 that ~~said the~~ father or mother, if able, has not contributed
11 to the support of ~~said the~~ child during a period of 1 year
12 before the filing of a petition for adoption; or

13 ~~(vii) whose parental rights have been judicially~~
14 ~~terminated;~~

15 (b) the legal guardian of ~~the person of~~ the child if
16 both parents are dead or if the rights of the parents have
17 been terminated by judicial proceedings and such guardian
18 has authority by order of the court appointing him to
19 consent to the adoption;

20 (c) the executive head of an agency if the child has
21 been relinquished for adoption to such agency or if the
22 rights of the parents have been judicially terminated or if
23 both parents are dead and custody of the child has been
24 legally vested in such agency with authority to consent to
25 adoption of the child; or

1 (d) any person having legal custody of a child by
2 court order if the parental rights of the parents have been
3 judicially terminated, but in such case the court having
4 jurisdiction of the custody of the child must consent to
5 adoption and a certified copy of its order shall be attached
6 to the petition.

7 (2) The consents required by subsections (1)(a) and
8 (1)(b) shall be acknowledged before an officer authorized to
9 take acknowledgments or witnessed by a representative of the
10 department of social and rehabilitation services or of an
11 agency or witnessed by a representative of the court."

-End-

Forty-Sixth LEGISLATIVE SESSION

COMMITTEE ON Judiciary - Senate

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
B-183	1/13/79	1/26/79	1/26/79		1/26/79				
B-69	1/19/79	1	1/18/79						
B-88	1/20/79	1/25/79	1/26/79				1/26/79		
B-95	1/20/79	1/26/79	1/26/79				1/26/79		
B-96	1/20/79	1/25/79	1/26/79					1/26/79	
B-132	1/22/79	1/22/79	1/29/79						
B-149	1/22/79	1/22/79	1/31/79			1/30/79			
B-191	1/23/79	1/29/79	1/29/79		1/29/79				
B-202	1/23/79	1/30/79	2/5/79			2/5/79			
B-204	1/23/79	1/29/79	1/30/79			1/29/79			
B-205	1/23/79	1/29/79	1/30/79			1/29/79			
B-207	1/23/79	2/5/79	2/8/79		2/7/79				
B-211	1/23/79	2/1/79	2/7/79						
B-233	1/23/79	2/28/79	2/28/79				2/28/79		
B-165	1/23/79	1/29/79	1/29/79				1/29/79		
B-167	1/23/79	1/29/79	1/29/79					1/29/79	

Senator Turnage questioned how many cases have come to trial using videotape, and Ms. Townsend replied that they have not had an opportunity to use it. She stated that in Great Falls they have had experience with it. Senator Turnage commented that he was curious about the record of success in using it.

Mr. Honzel stated that if the victim was an adult in a rape case, they would rather have the victim testify.

Senator Towe referred to Barney Reagan's letter and wondered about the constitutional rights to a public trial. Under these circumstances, the constitutional right of a public trial is nullified. Ms. Townsend said that she disagrees. She stated that the public trial would be there and instead of the victim being placed on the stand, the videotape would be played. She said that all the other rights are protected. Senator Turnage commented that they allow depositions. Ms. Townsend commented that it is possible on a T.V. screen to get the demeanor of the witness.

Senator Towe moved the bill do pass. The motion carried unanimously.

CONSIDERATION OF HOUSE BILL 165:

Representative Kvaalen was not here to present this bill, so Randy McDonald, representing the code commission, went over this bill section by section. This is an act to generally revise and clarify the law relating to minors.

Senator Towe questioned on lines 21 and 22, page 2, if this was the appropriate thing to do in every case. Mr. McDonald said that that is the way it is done now. Senator Towe stated that so many times these people are sent to Warm Springs or Boulder when it could be done at the local level.

There were no further proponents and no opponents.

Senator Brown moved that we concur in this bill. The motion carried unanimously.

CONSIDERATION OF HOUSE BILL 167:

Randy McDonald from the Legislative Council, gave an explanation of this bill, which is an act to revise and clarify the law relating to the family.

Senator Turnage moved that on line 20 and 21 on page 6 that the bill be amended by striking this material in its entirety. The motion carried unanimously.

There were no further proponents and no opponents.

Senator Towe moved that the bill be concurred in, as amended.
The motion carried unanimously.

There being no further business, the meeting adjourned at
10:51 a.m.

Everett R. Lensink
SENATOR EVERETT R. LENSINK
CHAIRMAN, SENATE JUDICIARY
COMMITTEE

Date 4/22/79

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)	✓		
Galt, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)	✓		

Each Day Attach to Minutes.

STANDING COMMITTEE REPORT

January 29 19 79

MR. President:

We, your committee on Judiciary

having had under consideration House Bill No. 167

Respectfully report as follows: That House Bill No. 167

in the third reading bill, be amended as follows:

1. Page 6, lines 20 through 21.

Following: line 19

Strike: lines 20 through 21 in their entirety

Re-number: subsequent subsections accordingly

And, as so amended, BE CONCURRED IN
PASSED

Everett R. Lensink Chairman

JUDICIARY

COMMITTEE

46th— Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 131	opencut mining and reclama- tion and provide for fines fee, and penalties. etc.	1/12	Harper	Tuesday 16th	do not pass as amended	1/18
HB 133	require notice to the AG when a dept or board initiates or intervenes in court action	1/12	Eudaily	Tuesday 16th	do pass	1/18
HB 138	change Montana constitution to provide a candidate for the legislature must be a res. for 1 year in district	1/12	Pistoria	Tuesday 16th	do pass roll call 9-8	1/18
HB 148	county welfare dept. abused, neglected or dependent children, etc.	1/15	Rosenthal	Thursday 18th	table	1/24
HB 165	relating to minors	1/15	Kvaalen	Thursday 18th	do pass	1/18
HB 167	relating to the family	1/15	Kvaalen	Thursday 18th	do pass	1/18

There was no discussion and no questions and the hearing closed on House Bill 170.

SENATE BILL NO. 4:

Senator Galt introduced Dave Cogley of the Legislative Counsel. A number of changes were made in the Senate. On line 8, it seems to equate the dollar amount to 60 days labor. Also, it should be right of redemption and right of foreclosure. He went on to explain some of the laws that will not be included in the code.

Representatives Roth and Iverson came in.

There was general discussion about changing the term, execution debtor and mortgage debtor. Mr. Cogley explained that execution debtor does include mortgage debtor.

The question was raised as to the meaning of the word "agister" and he explained that it is a person who has charge of another persons property.

There was no other discussion and the hearing closed on Senate Bill 4.

SENATE BILL NO. 25:

Senator Galt introduced Dave Cogley who went through the bill and explained it. There was some discussion about the minor changes in the bill. The bill revises and clarifies the laws relating to alcohol and tobacco.

The hearing closed on Senate Bill 25.

HOUSE BILL NO. 167:

Representative Kvaalen introduced Randy McDonald who said this bill was introduced to revise and clarify the law relating to the family. He went through the bill and pointed out the places that had been clarified to make it more clear.

There was no discussion and the hearing closed on House Bill 167.

The meeting adjourned at 9:05 a.m. and the committee went into executive session



John P. Scully, Chairman

Mary Ellen Connelly, Secretary

1/18/79
Executive session
Page 2

HOUSE BILL NO. 133:

Representative Keyser moved "do pass". Representative Eudaily moved to amend Page 1, Line 15, strike: "served" Insert: "delivered to". A discussion followed about the meaning of the word served as used in the bill. Representative moved to withdraw his motion to amend. The motion "do pass" carried with the vote unanimous.

Representative Lory moved to place the bill on the consent calendar. The motion carried with the vote unanimous.

HOUSE BILL NO. 138:

Representative Keedy moved "do pass". He spoke to his motion and said that it is a bill to put the decision on the ballot, and he felt that people should have that option.

Representative Daily offered a substitute motion "do not pass". The motion failed on a roll call vote of 9 to 8.

Representative Keyser moved "do pass". The motion carried on a roll call vote of 9 to 8.

HOUSE BILL NO. 165:

Representative Conroy moved "do pass". Discussion about the consideration to enter into a contract led by Representative Keedy. The question was called and the motion carried with the vote unanimous.

Representative Eudaily moved to place the bill on the consent calendar. The motion carried with the vote unanimous.

HOUSE BILL NO. 167:

Representative Keyser moved "do pass." The motion carried with the vote unanimous. Representative Keyser moved to place the bill on the consent calendar. The motion carried with the vote unanimous.

HOUSE BILL NO. 170:

Representative Keyser moved an amendment to Page 1, line 18, Strike: "or" The motion carried with the vote unanimous.

Representative Eudaily moved "do pass as amended". The motion carried with the vote unanimous. Representative Roth moved to place the bill on the consent calendar. The motion carried unanimously.

HOUSE BILL NO. 167

INTRODUCED BY KVAALEN

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO THE FAMILY; AMENDING SECTIONS 40-1-203, 40-1-311, 40-5-112, 40-5-131, 40-6-108, AND 40-8-111, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-1-203, MCA, is amended to read:

"40-1-203. Proof of age and medical certificate required. (1) Before a person who is authorized by law to issue marriage licenses may issue a marriage license, each applicant therefor shall exhibit to him a birth certificate or other satisfactory evidence of age and, if such the applicant is a minor, the approval required by 40-1-213, and shall file with him a medical certificate from a duly qualified physician, licensed to practice medicine and surgery in any state or United States territory, or any other person authorized by laws of Montana to make such a medical certificate, which the certificate shall state that the applicant has been given such an examination, including a standard serological test, made not more than 20 days before the date of issuance of the license, and that the

report of the results of the serological test has been exhibited to the applicant and that each party to the proposed marriage contract has examined the report of the serological test of the other party to the proposed contract.

(2) A person who by law is validly able to obtain a marriage license in this state is also validly able to give consent to any examinations and tests required by this section. In submitting the blood specimen to the laboratory, the physician or any other person authorized by the laws of Montana to make such a medical certificate shall designate that it is a premarital test."

Section 2. Section 40-1-311, MCA, is amended to read:

"40-1-311. Declaration of marriage without solemnization. (1) Persons desiring to consummate a marriage by written declaration in this state without the solemnization provided for in 40-1-301 must, prior to executing the declaration, secure the premarital test medical certificate required by this chapter, which shall be firmly attached to the declaration and shall be filed by the clerk of the district court in the county where the contract was executed. Any such a declaration of marriage shall must contain substantially contain the following:

- (a) the names, ages, and residences of the parties;
- (b) the fact of marriage;

(c) ~~the~~ name of father and maiden name of mother of both parties and address of each;

(d) ~~a statement~~ that both parties are legally competent to enter into the marriage contract.

(2) Such ~~the~~ declaration must be subscribed by the parties and attested by at least two witnesses and formally acknowledged before the clerk of the district court of said ~~the~~ county."

Section 3. Section 40-5-112, MCA, is amended to read:

"40-5-112. Contents and filing of petition for support -- venue. (1) The petition shall be verified and shall state the name and, so far as known to the obligee, the address and circumstances of the obligor and the persons for whom support is sought and all other pertinent information. The obligee may include in or attach to the petition any information which may help in locating or identifying the obligor, including a photograph of the obligor, a description of any distinguishing marks on his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, and his social security number.

(2) At the time of filing the petition, the obligee shall also file with the court an affidavit as required by 53-4-248 stating whether he has received public assistance from any source and, if he has received public assistance,

that he has notified the department of social and rehabilitation services in writing of the pending action.

(3) The petition may be filed in the appropriate court of any state in which the obligee resides. The court may not decline or refuse to accept and forward the petition on the ground that it should be filed with some other court of this or any other state where there is pending another action for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody between the same parties or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement."

Section 4. Section 40-5-131, MCA, is amended to read:

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1 its support order to the amount allowed in the other action
2 or proceeding. Thereafter, the court shall not stay
3 enforcement of its support order because of the retention of
4 jurisdiction for enforcement purposes by the court in the
5 other action or proceeding."

6 Section 5. Section 40-6-108, MCA, is amended to read:
7 "40-6-108. Statute of limitations. (1) An action may
8 be commenced:

9 (a) at any time for the purpose of declaring the
10 existence of the father and child relationship presumed
11 under subsection (a), (b), or (c) of 40-6-105(1); or

12 (b) for the purpose of declaring the nonexistence of
13 the father and child relationship presumed under subsection
14 (a), (b), or (c) of 40-6-105(1), only if the action is
15 brought within a reasonable time after obtaining knowledge
16 of relevant facts, but ~~in no event~~ not later than 5 years
17 after the child's birth.

18 (2) After the presumption has been rebutted, paternity
19 of the child by another man may be determined in the same
20 action if he has been made a party.

21 (3) An action to determine the existence or
22 nonexistence of the father and child relationship as to a
23 child who has no presumed father under 40-6-105 may not be
24 brought later than 3 years after the birth of the child or
25 ~~later than July 1, 1978, whichever is later.~~

1 (4) Sections 40-6-107 and 40-6-108 do not extend the
2 time within which a right of inheritance or a right to a
3 succession may be asserted beyond the time provided by law
4 relating to distribution and closing of decedents' estates
5 or to the determination of heirship or otherwise.

6 (5) After the conclusion of an adoption proceeding
7 under chapter 8, Title 40, no further action to declare the
8 existence or nonexistence of the father and child
9 relationship of the adopted child may be commenced, except
10 as provided in 40-8-112."

11 Section 6. Section 40-8-111, MCA, is amended to read:

12 "40-8-111. Consent required for adoption. (1) An
13 adoption of a child may be decreed when there have been
14 filed written consents to adoption executed by:

15 (a) both parents, if living, or the surviving parent
16 of a child, provided that consent ~~shall~~ is not be required
17 from a father or mother:

18 (i) adjudged guilty by a court of competent
19 jurisdiction of physical cruelty toward ~~said~~ the child;

20 ~~+++adjudged-to-be-an-habitual-drunkard-involuntarily~~
21 ~~committed-as-an-alcoholic-pursuant-to-53-24-302~~

22 ~~+++~~ (iii) who has been judicially deprived of the
23 custody of the child on account of cruelty or neglect toward
24 the child;

25 ~~+++~~ (iiii) who has, in the state of Montana or in any

1 other state of the United States, willfully abandoned such
2 ~~the~~ child;

3 ~~(v)(IV)~~ who has caused the child to be maintained by
4 any public or private children's institution, charitable
5 agency, or any licensed adoption agency or the department of
6 social and rehabilitation services of the state of Montana
7 for a period of 1 year without contributing to the support
8 of said ~~the~~ child during said period, if able; or

9 ~~(v)(IV)~~ if it is proven to the satisfaction of the
10 court that said ~~the~~ father or mother, if able, has not
11 contributed to the support of said ~~the~~ child during a period
12 of 1 year before the filing of a petition for adoption; ~~or~~
13 ~~(v)(VII) whose parental rights have been judicially~~
14 ~~terminated;~~

15 (b) the legal guardian of ~~the person of~~ the child if
16 both parents are dead or if the rights of the parents have
17 been terminated by judicial proceedings and such guardian
18 has authority by order of the court appointing him to
19 consent to the adoption;

20 (c) the executive head of an agency if the child has
21 been relinquished for adoption to such agency or if the
22 rights of the parents have been judicially terminated or if
23 both parents are dead and custody of the child has been
24 legally vested in such agency with authority to consent to
25 adoption of the child; or

1 (d) any person having legal custody of a child by
2 court order if the parental rights of the parents have been
3 judicially terminated, but in such case the court having
4 jurisdiction of the custody of the child must consent to
5 adoption and a certified copy of its order shall be attached
6 to the petition.

7 (2) The consents required by subsections (1)(a) and
8 (1)(b) shall be acknowledged before an officer authorized to
9 take acknowledgments or witnessed by a representative of the
10 department of social and rehabilitation services or of an
11 agency or witnessed by a representative of the court."

-End-